

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

JONATHAN USHER,

Petitioner,

Case No. 2:14-cv-163

v.

Honorable R. Allan Edgar

THOMAS MACKIE,

Respondent.

\_\_\_\_\_ /

**ORDER**

In accordance with the Opinion issued this day:

**IT IS ORDERED** that Petitioner's proposed pleadings (dockets ## 16-1 through 16-8) are accepted for filing.

**IT IS FURTHER ORDERED** that Petitioner's motion to amend (dockets #16 and 16-1) to assert claims of actual innocence and equitable tolling of the statute of limitations is **GRANTED**.

**IT IS FURTHER ORDERED** that Petitioner's motion for equitable tolling of the statute of limitations (docket #16-2) is **GRANTED** and the petition is deemed timely filed.

**IT IS FURTHER ORDERED** that the Report and Recommendation (docket #12) to dismiss the petition as time-barred is **REJECTED**.

**IT IS FURTHER ORDERED** that Petitioner's motion for appointment of counsel (docket #16-4) is **DENIED**.

**IT IS FURTHER ORDERED** that Petitioner's motion for a stay of the proceedings (docket #7) is **GRANTED**.

**IT IS FURTHER ORDERED** that Petitioner shall have thirty (30) days from the date of this order in which to file a motion for relief from judgment in the Wayne County Circuit Court setting forth any unexhausted claims that he intends to pursue in his habeas petition.

**IT IS FURTHER ORDERED** that Petitioner's action is hereby stayed until Petitioner files a motion to amend his petition to include any subsequently exhausted claims. Such motion must be filed not later than 30 days after a final decision by the Michigan Supreme Court on Petitioner's unexhausted claims and shall include a description of the newly exhausted claims and the dates and substance of decision at each step of state-court review.

**IT IS FURTHER ORDERED** that if Petitioner fails to comply with the deadlines imposed in this order, the Court may dismiss the petition.

**IT IS FURTHER ORDERED** that Petitioner shall advise the Court of any change of address occurring during the pendency of the stay.

**IT IS FURTHER ORDERED** that this case shall be administratively closed until such time as Petitioner files a motion to amend his petition in accordance with the procedures set forth in this order.

Dated: 11/6/2014

/s/ R. Allan Edgar  
R. ALLAN EDGAR  
UNITED STATES DISTRICT JUDGE